1949.

File No. O Gnamas/49

Legal Department-

A **BRANCH**

Subject:— Opinions under the

regarding Gramas and Jahagirs

P9/E

319-A

File No. O. Gnamas/49

Gen. 194

CONTENTS.

Legal Department File No. G. Inams/49

Sr. No.	R.I. / G.O. No.	Subject	Pages
		Opinions regarding Inams and Jahagirs.	
1.	~~2296 25-8-1949.~~	Resumption of Personal Inam by levy of assessment	1-4
2.	~~2803 1-4-1949~~	Payment of compensation to vajifdars whether the award made is binding on Government etc.	5-6
3.	~~833 15-4-1949~~	Kadim Inams — Whether Inamdar entitled to claim N.A. assessment.	7-10
4.	~~2536 18-5-1949~~	Alternation of classification of inam from service to personal	11-14
5.	~~12955 7-11-1949~~	Inam grants from pre-British Rulers — whether G.O. No. No. 2696 dated 30-5-1930 requires modification.	15-16
6.	~~11783 20-8-1949~~	Right to resume patagars water lands in Savanur State.	17-20
7.	~~20076 6-12-1949~~ —	Kadim Inam Lands Dharwar Savnur State — Restoration of patagams - In	21-24

M.R.D.
6-4-55
C.A.

18
1/16

Office of the R.L.A.

Resumption of Personal inam by levy of assessment.

The questions raised for R.L.A.'S consideration in this case are(1) whether the alienated lan's can we resumed by eviction and if not, (2) whether the resumption can be made by levy of full assessment and if so from which date.

It appears that the lands have been alienated about 50 years ago in contravention of the terms of the grant. These lands are inam lands cont nued as of Class II Personal Under G.R. No. 3751, dated the 1st July 1851 It is therefore presumed that it is an inam settled under Act XI of 1952. At any rate it is clear that the Resumption Rules of 1908 will have no application to these lands. In 'Pitdaya v. The Secretary of State for India' (25 Bom.L.R.p. 1160)Shah C.J.at p. 1167 observed:

"We do not think that unless the powers(Powers of resumption by eviction) could be referred to any statutory provision, or any rule which has the force of law, it could be assumed that the Collector would have the power of disturbing the possession of any third parties who may have acquired rights in respect of such lands under the operation of law, as, for example, by adverse possession. Where a third party is foun in possession of such lands, either the party interested must sue him for possession, or if the Government feel interested in the restoration of the lands, they may be able to sue the thrid party for such restoratio We do not express any opinion on this last point. But we think that if these rules (Rules of resumption) are not intra vires of the Government as regards such lands(lands which are not granted for service of State) as we are concerned with in this case, and if the Collector has no power to disturb the possession of a third party by summarily evicting him or l levying economic rent, the plaintiff is entitled to maintain a suit for the purpose of restraining the Collector from enforcing the Order in question."

These observations apply to the present case and the alienees being in possession for over 50 years it would not be legally feasible for Govern ment to resume possession by evicting these alienees.

The next question for consideration is whether these lands can be resumed by levy of full assessment. It is apparent from the Alienation Register that that was alienated was land revenue of Rs. 34-11-6. Consequently, there sound be no legal objection to resume these lands by lev of full assessment, that is to say, by withdrawing what was granted to t Inamdar. This levy of full assessment cannot be retrospectively done. Resumption by levy of full assessment can, therefore, take effect from the date of the order made in this behalf.

34/-
24-2

Remembrancer of Legal Affairs.

M.R.D.
6-6-49
C.A

U.R. to R.D. No. 2296 dated the 26th February 1949.

Office of the R.L.A.

Payment of compensation to Vajifdars - whether the award made is binding on Government etc.

Only parties to the award would be bound by it provided it is validly made. In the present case, Government was not a party to the award made by Mr. Lala. Consequently it would not be competent for Government to enforce or rely on the award to relieve itself of the liability, if any, to pay compensation to the Vajifdars in the event of resumption of the management of the village.

Sd/-
31-3

Remembrancer of Legal Affairs.

M.R.D.
6-6-56
C.4

U.R. to R.D., No. 3523, dated the 1st April 1949.

Submitted:

2. Hole Alur is an entire inam village (surveyed and settled) of Class II in the Ron Tal. of the Dharwar Distt, gifted as enfranchised private property. S.Nos. 92 and 162 of this village are Kadim Inam lands of Class VI-B- Kulkarni, held by one Mr. Narayan Dhando Kulkarni. By his order dt. 18-12-46 the Collr. of Dharwar accepted the relinquishment of the said two S. Nos. from Mr. Kulkarni under sec. 74 of the Land Revenue Code, in favour of Govt. and regranted them to him as unalienated unoccupied lands on ordinary rayatwari & tenure. They have been converted to N.A. use and N.A. assessment is levied on them. The Inamdars of the villages now contend that they should have been consulted before converting these lands to Khalsa Tenure and that they are entitled to receive the N.A.assessment levied on them. The Collr. of Dharwar considers that by the subsequent grant of the village as ser inam the Kadim inadars of the two S. Nos were not effected and the judi that was recovered from them, was after the grant, made over to the Inamdar of the village; that the sanand evidencing the Inam does not entitle thethe Inamdar to prior consultation in cases of conversion of Kadim inam into rayatwari tenures. He therefore proposes that a cash allowances of Rs. 20.11.0 which was the mnul judi to which the Inamdars were entitled may be paid to them.

The R.D. considers that owing to the conversion of the lands the Inamdars of the village have been put to loss to the extent of the mannal judi, they were receiving and propose to accept the Collrs. proposal. The R.L.A. is requested to advise.

Seen and returned the view taken by R[illegible] is correct.

R.T.K.
Sd/-
11-4

R.L.A.
Sd/-
11-4

U.R. to R.D. No. 4033 dt. 13-4-1949.

M.R.D.
6-[illegible]
C.A

Office of the R.L.A.

Alternation of classification of inam from service to personal.

It appears that the five villages(1)Kandach, (2)Khandoli,(3)Alali, (4) Sureli and(5) Madvas, along with other watan inams, in Kalol Taluka of the panch Mahals District were brought under summa y settlement under Government Resolution Revenue Department No. 3529 dated the 9th July 1874. These villages are shown in the Land Alienation Register of Kalol Taluka as of Class IV Paragana Watan of District Hereditary Officers brought under summary settlement by Government Resolution Revenue Department No. 3529dated 9.7,1874; while the sanad issued in respect of these villages shows that the grant is a personal inam of Class II. Madanrai Purshottamdas Desai and Ashvinkumar Manvantrai Desai have represented to the Collector that these villageswere were their personal inams of Class II and not of Class IV as shown in the Alienation Registerx and have requested that the classification should be changed from Class IV to classII. The Commissioner, Central Division, who was consulted in the matter observes in his letter at page 3 as follows:-

"Personal and Dewasthan inams and watans of District Hereditary Officers in thex Gujarat Districts except the District of panch Mahals were brought under the summary settmelent under Act VII of 1863 and the peddar settlement respectively. The settlement of the inams in panch Mahals District was done at a later stage in about 1872 and 1874 and has peculiar conditions attached to it, mainly because a great portion of it came in exchange from the Scindia in about 1860-61 and the whole of the Panch Mahals District was for several years under the political superintendence of the British Government. As a matter of fact of a sanad in form No. 25 which is used for the watans of District Hereditary Officers in panch Mahals and other Districts of Gujarat should have been issued to the holders of these villages but evidently through oversight a sanad in form 20 which is intended for personal inam villages in that district was issued. In this form the inams are described as personal inams to be continued as private property. The view previously taken was that summary settlement effected with the holders of these villages under Government Resolution Revenue Department No. 3529 dated 9.7.1874 is in the nature of an agreement and that sanads issued with reference to such agreements merely evidence the agreement and can be corrected if found erroneous: vide paragraph 3 of R.L.A.'s opinion No. O./Local Boards 3/30 dated 6.5.1930 printed in the preamble of Government Resolution Revenue Department No. 4245/28 (Confidential)dated 14.7.1939.However, in Letters Patent Appeal No. 40 of 1938, the High Court has held that the sanad is a perfect contract between the parties and that the Government has no power to alter it under section 211 of the Land Revenue Code. 44 B.L.R. 45. In view of this decision we cannot move behind the sanad, and the inams in this case will have to be treated as personal inam".

The R.L.A. is requested to advise.

2. From the papers underlying the Government Resolution Revenue Department No. 3529 dated 9th July 1874, it appears that had the claim of a personal inam been upheld the villages would have been altogether exempt from settlement; whereas if they were treated as regular service

service inams, they would have been liable to a 4 anna settlement. Eventually after much discussion these villages were settled as a special case at 2 annas. The watandars accepted that settlement. In doing so they must be deemed to have abandoned their claim that the villages were personal inams; they agreed to the settlement and have been submitting to it ver since. The settlement can be explained only on the ground that the villages were treated as service inams. The obvious inference would, therefore, be that the sanad issued in in the peresent case treating these villages as of personal inam is vitiated by mutual mistake. The classification in the Alienation Register need not therefore, be changed . In fact there could be no legal objection even to cancelling the sanad if it were neceesaryto do not see Secretary of State vs. Jeth Jeshingbhai Hathisang(I.L.R. 17 Bombay 407) which was follow in Secretary of State for India vs. Indocrai(28Bom.L.R.1308). The decision in the province of Bombay vs. Hormusji Janekji (Letters patent Appeal No, 40 of 1938) is clearly distinguishable; for in that case there was no question of any mutual mistake vitiating the sanad. However, at this stage we may inform the Desais that Government see no reason to change the classification.

Sd/-
17-5

Remembrancer of Legal Affairs.

N.R.D.
6-6-56
C.4

U.R. to R.D., No. 5536, dated the 18th May 1949.

Office of the R.L.A.

The orders contained in G.R., R.D., No. 2496, dated 30th May 1930 require no modification, for it is nowhere stated in that G.R. that in the case of the pre-British grants there is a presumption of such grants being of revenue only and not of soil, on the contrary in the R.L.A.'s opinion which is printed in the preamble of the G.R. it is clearly stated that there is no resumption either way, in the light of which that G.R. is to be construed.

Sd/-
5-11

Remembrancer of Legal Affairs.

M.R.D.
6-6-96
C.4

U.R. to R.D. No. 12525 dated the 7th November 1969.

Right to resume paragana when lands in Sevanur State.

...ve the first question the suggestion made by the Collector, however may be accepted, for when the original order of resumption itself is cancelled, the lands would be deemed to be continued under the terms of the grant. The orders contained in G.O.R. No. 6792/33, dated 20 th April 1940 will not in any way affect the question for when the order of resumption itself is cancelled the question of restoring the land under that G.O. would not survive.

On the second question, the view taken by the Commissioner, C.D, is correct. The Secretary to His Excellency the Crown Representative in his letter dated 22nd July 1947 (at page 1037 ante) has clearly stated that with the ~~pa~~ lapse of Paramountcy, which would take place on August 15, 1947, there would no longer be any question of the Government of Bombay Collecting the Judi which belonged to the Crown Representative and would no longer be payable when he ceased to exist. Consequently, the judi payable by the Desai of Kandigunur and the Deshpande of Alagiatti in respect of Inam ~~lands~~ held by them in the merged Sevanur State will have to be reduced from the total demand payable by them with effect from 1947-48. It may however be noted that the as observed by the Secretary to His Excellency the Crown Representative, with the lapse of paramountcy, the grants also as evidenced by the Sanads issued in behalf of the Crown Representative to these Inamdars would lapse; but the lands comprising these grants though freed from liability to the payment of judi, would still be liable to be assessed as ordinary lands under the Land Revenue Code, for Government's right to assess the lands is inherent and can be exercised. Strictly speaking, these lands would now be liable to full assessment. In view of the the past history of these lands which shows that special efforts were made to maintain their Inam character, it would not seem expedient to levy full assessment. Perhaps that course will become inevitable when the whole question of Inam tenures will hereafter come under review. Till then, it would be advisable to inform these Inamdars that full assessment is legally leviable from them but that pending the decision of the general question of Inams they are allowed to pay judi as before.

Sd/-
19-10

P.T.O

54/-
19-10

Remembrancer of Legal Affairs.

U.R. to R.D. No. 11743 dated the 20th October 1949.

M.R.D.
6-6-56
C.4